

JUN 16 2017

KS State Board of Healing Arts

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

In the Matter of)	
)	Docket No. 17-HA 00067
Sean Kevin Stephen Conroy, P.A.)	
Kansas License No. 15-01390)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Joseph S. Behzadi, Associate Litigation Counsel (“Petitioner”), and Sean Kevin Stephen Conroy, P.A. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as a physician assistant in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: [REDACTED] Oberlin, Kansas 67749.
2. Licensee is or has been entitled to engage in the practice as a physician assistant in the State of Kansas, having been issued License No. 15-01390 on or about August 3, 2010. Licensee most recently renewed his license on or about December 8, 2016. Licensee’s license is currently active.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of a physician assistant. K.S.A. 65-28a01, *et seq.* and K.S.A. 65-28a02.
4. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided

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by K.S.A. 77-505 and 65-28a12. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Physician Assistant Licensure Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

6. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

7. The terms and conditions of the Consent Order are entered into between the undersigned parties and are submitted for the purpose of allowing these terms and conditions to become an Order of the Board. This Consent Order shall not be binding on the Board until an authorized signature is affixed at the end of this document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

8. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-28a05 to take action with respect to Licensee's license under the Kansas Physician Assistant Licensure Act, K.S.A. 65-28a01, *et seq.*

9. The facts supporting the allegations in this Consent Order are as follows:

- a. On or about November 19, 2015, Patient 1, [REDACTED] presented to WaKeeney/Ellis Family Care Clinic with chief complaints of headache, vomiting, and incontinence since November 17, 2015.
- b. Patient 1's father reported, in addition to the severe headache, Patient 1 was experiencing involuntary arm jerking.
- c. Furthermore, the night prior, Patient 1 experienced hearing voices.
- d. Patient 1 had a history of respiratory problems, was noted to have "poor" functional status, and was noted to be in preschool.
- e. Licensee did not complete a neurological examination; however, Licensee diagnosed Patient 1 with Pediatric Migraine and ordered thirty (30) 10mg tablets of Amitriptyline with instructions for Patient 1 to take one (1) tablet three (3) times daily with one (1) refill.
- f. Licensee did not perform a thorough workup to include additional studies or tests prior to prescribing Amitriptyline.
- g. On or about February 3, 2016, the Board received a response from Licensee, wherein Licensee indicated, "I recall little about the episode, except possibly after reviewing his chart and the nurses [sic] report, in investigating his headache and cyclic vomiting and physical exam in UpToDate that the treatment I initiated would have been per the UpToDate recommendations."
- h. UpToDate is an online website claiming to be an evidence-based, physician-authored clinical decision support resource.
- i. Licensee inappropriately prescribed Amitriptyline due to the excessive dose and age of Patient 1.

- j. In late October 2015, Patient 2, [REDACTED] had been hospitalized for eight (8) days with acute sigmoid diverticulitis.
- k. On or about November 9, 2015, Patient 2 was seen by Gordon Lang, M.D. at WaKeeney/Ellis Family Care for a post hospital follow-up.
- l. Dr. Lang noted Patient 2 still had abdominal pain in the left lower quadrant (“LLQ”), but was improved.
- m. Further, Dr. Lang noted Patient 2 had tenderness to palpation to the LLQ and the right lower quadrant (“RLQ”) with no guarding or rebound.
- n. Dr. Lang documented Patient 2’s diverticulitis was improved and his plan was for Patient 2 to finish taking the prescribed Levaquin.
- o. On or about November 13, 2015, Patient 2 presented to the Emergency Room at WaKeeney Family Care Clinic/Trego County Lemke Memorial Hospital with abdominal pain rated at a 10/10.
- p. Licensee noted Patient 2 was [REDACTED] “Does pause episode to speak & answer questions,” and “guards throughout exam.”
- q. Licensee’s clinical impression was “NON-Acute Long Standing.”
- r. Licensee ordered a “GI-Cocktail” on the Emergency Department Physician Order Sheet, and then discharged Patient 2 with a diagnosis of abdominal pain with a plan for a CT in the morning.
- s. It is unclear why Licensee did not obtain the CT at that time.
- t. At some point, Licensee added an untimed order for Dilaudid 2mg IV to a copy of the original Emergency Department Physician Order Sheet.

- u. Patient 2 returned that morning, on or about November 13, 2015, and had a CT scan that indicated bowel perforation and possible entero-colonic fistula.
- v. Licensee took Patient 2 to the Emergency Department, Patient 2 was crying in pain, and Licensee reported Patient 2 had a CT and needed to be transferred to Hays for surgery.
- w. Licensee altered Patient 2's medical records including:
 - i. Altering the time Patient 2 was seen at the Emergency Room ("ER") on the Emergency Physician Record;
 - ii. Licensee changed the diagnosis from "NON-Acute Long Standing" to "NOW-Acute/Long Standing" on the Emergency Physician Record;
 - iii. Licensee crossed out the checked box "home" and circled the checked box "transfer" on the Emergency Physician Record; and
 - iv. Licensee crossed out the ER number and wrote "From clinic."
- x. Licensee did not initial the alterations, indicate when the alterations were made, nor why the alterations were made.
- y. On or about November 19, 2015, Patient 3, [REDACTED] [REDACTED] presented to the WaKeeney Family Care Clinic with complaints of swelling and pain in the right lower extremity ("RLE").
- z. Patient 3 was seen by the APRN who documented Patient 3's history of GI bleeding, noting Patient 3 had experienced a RLE deep vein thrombosis

("DVT") and pulmonary emboli ("PE") in October 2015, that had been treated with an IV filter at Hays Medical Center.

- aa. The APRN further documented in Patient 3's chart, "No [sic] on anticoagulants due to GI Bleed." and "Recent hx GI bleed."
- bb. Patient 3 was referred to cardiology for evaluation for anticoagulation and was to follow up in the morning of November 20, 2015, for monitor of complete blood count ("CBC") and recheck.
- cc. On or about November 20, 2015, Patient 3 presented to Licensee with right leg and foot swelling with new onset of pain rated at 1/10.
- dd. Licensee did not document a patient history and did not review the APRN's notes from November 19, 2015.
- ee. Licensee diagnosed Patient 3 with DVT of the right popliteal and mild anemia.
- ff. Licensee improperly prescribed Lovenox, an anticoagulant drug, 60mg SQ, twice a day for one (1) week with a follow up to confirm dissolution of the clot.
- gg. On or about November 23, 2015, Patient 3 awoke during the night with chest pain and was transported via ambulance to the Emergency Room where it was determined Patient 3 had a GI bleed.
- hh. Patient 3's hemoglobin ("HGB") dropped abnormally low to 7.7, and Patient 3's hematocrit ("HCT") was also abnormally low at 27.4%.

- ii. Licensee's response, received by the Board on or about March 29, 2016, indicates, "There was no indication in the note from the previous day, nor in any clinic note that he was not a candidate for anti-coagulation therapy."
- jj. However, the original notes received by the Board on or about October 6, 2016, from the Trego County Lemke Memorial Hospital IT department clearly indicates Patient 3 had a history of GI bleed and no anticoagulants should have been prescribed.

10. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas Physician Assistant Licensure Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

11. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-28a05(a).

12. Licensee's violated K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(e), in that Licensee willfully or repeatedly violated the physician assistant licensure act.

13. Licensee violated K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(j), in that Licensee prescribed, dispensed, administered, or distributing a prescription drug or substance, including a controlled substance, in an excessive, improper, or inappropriate manner or quantity, or not in the course of Licensee's professional practice by inappropriately prescribing Amitriptyline to Patient 1 and Lovenox to Patient 3.

14. Licensee violated K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(r), in that Licensee committed conduct likely to deceive, defraud, or harm the public by inappropriately prescribing Amitriptyline to Patient 1 and Lovenox to Patient 3 and altering Patient 2's records.

15. Licensee violated K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(u), in that Licensee failed to keep written medical records that accurately describe the services rendered to Patient 2.

16. Licensee violated K.S.A. 65-28a05(a), as further defined in K.A.R. 100-28a-8(v), in that Licensee used any false, fraudulent, or deceptive statement in any document connected with the practice of the healing arts, including the intentional falsifying or fraudulent altering of a patient or medical care facility record of Patient 2.

17. Licensee's acts, if proven constitute professional incompetency as set forth in K.S.A. 65-28a05(c).

18. Licensee violated K.S.A. 65-28a05(c), as further defined in K.A.R. 100-28a-7(b), in that Licensee committed repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board in his care and treatment of Patients 1, 2, and 3.

19. Licensee violated K.S.A. 65-2805(c) as further defined in K.A.R. 100-28a-7(c) in that Licensee committed a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to perform professional services as a physician assistant.

20. Pursuant to K.S.A. 65-28a05, the Board may revoke, suspend, censure, fine or otherwise limit Licensee's license for violations of the Kansas Physician Assistant Licensure Act.

21. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

22. All pending investigation materials in KSBHA Investigation numbers 16-00413, 16-00414, and 16-00491 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 31 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

23. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice as a physician assistant in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Physician Assistant Licensure Act, K.S.A. 65-28a01 *et seq.*

24. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Physician Assistant Licensure Act, or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 *et seq.*, that are known or unknown and are not covered under this Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Kansas Physician Assistant Licensure Act.

25. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releasees", from any and all claims, including but not limited to those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees of any and all claims or demands of every kind and nature that Licensee has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Licensee shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

26. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

27. This Consent Order, when signed by both parties, constitutes the entire agreement between the parties and may only be modified or amended by a subsequent document executed in the same manner by the parties.

28. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complaint and/or investigation may be fully disclosed to and considered by the Board in conjunction with the presentation of any offer of settlement, even if Licensee is not present. Licensee further acknowledges that the Board may conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.

29. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

30. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

31. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

32. Licensee shall obey all federal, state and local laws and rules governing the practice of a physician assistant in the State of Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document.

33. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 77-526.

34. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Director for the Board and no further Order is required.

35. This Consent Order constitutes **public disciplinary action**.

36. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

37. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice as a physician assistant.

CPEP EVALUATION

38. Within ten (10) days of the approval of the Consent Order, Licensee shall contact The Center for Personalized Education for Physicians, ("CPEP"), 720 S. Colorado Blvd. Suite 1100-N, Denver, Colorado 80246, to schedule a Competence Assessment for the earliest dates available to both CPEP and Licensee within the next six (6) months. Both parties may provide relevant information to CPEP for consideration as part of this clinical skills assessment. In order to permit the Board to provide such relevant information, Licensee shall immediately notify the Compliance Coordinator in writing of the assessment dates once the assessment is scheduled.

39. All costs associated with such assessment by CPEP shall be at Licensee's own expense to include, but not be limited to, the cost of any accommodations while attending the assessment.

40. Licensee shall complete any necessary waiver/release so that the Board may receive a copy of the Assessment Report for review.

41. Licensee shall follow all recommendations of the CPEP Assessment, including monitoring if recommended by CPEP.

42. Proof of the completion of the assessment and a copy of the CPEP Assessment Report shall be submitted by sending the same to:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Ste. A
Topeka, Kansas 66612

PROBATION: EDUCATION

43. Licensee shall attend and successfully complete the Medical Record Keeping Seminar at CPEP at Licensee's expense.

44. On or before July 1, 2017, Licensee shall notify the Compliance Coordinator in writing that Licensee has registered to attend the CPEP Seminar on one of the following dates: September 23, 2017, or next available course date.

45. Licensee shall provide proof of successful completion of the Seminar within thirty (30) days of successfully completing the program.

46. All costs associated with the CPEP Medical Record Keeping Seminar shall be at Licensee's own expense to include, but not be limited to, the cost of the program, any cost of travel to and from the program, and the cost of accommodations while attending the program.

47. All documentation required pursuant to this Consent Order shall be submitted to:

Compliance Coordinator
Kansas State Board of Healing arts
800 SW Jackson, Lower Level-Ste. A
Topeka, Kansas 66612

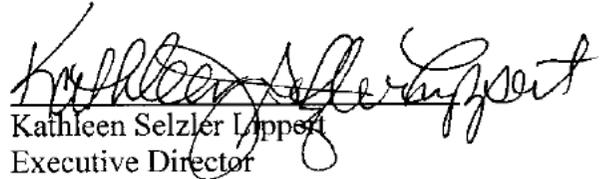
48. These hours will be in addition to those hours required for renewal of licensure.

49. Upon receiving proof of successful completion of all continuing education course(s)/seminar(s)/programs(s), this portion of Licensee's Probation: Education shall be terminated.

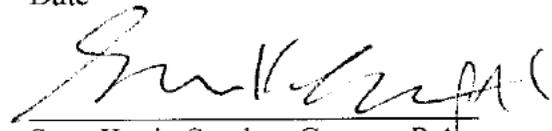
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 16 day of June, 2017.

**FOR THE KANSAS STATE
BOARD OF HEALING ARTS:**

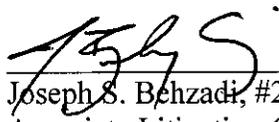

Kathleen Selzler Lipsett
Executive Director

6/16/17
Date


Sean Kevin Stephen Conroy, P.A.
Licensee

4-5-2017
Date

PREPARED AND APPROVED BY:



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Associate Litigation Counsel
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 16th day of June, 2017, to the following:

Sean Kevin Stephen Conroy, P.A.
Licensee
[REDACTED]
Oberlin, Kansas 67749

And the original was hand-filed with:

Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Joseph S. Behzadi
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
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Cathy A. Brown